

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

**JULIE A. SU, *Acting Secretary,*
*Department of Labor,***

Petitioner,

v.

**Case No. 2:24-mc-19
Judge Sarah D. Morrison
Magistrate Judge Chelsey M.
Vascura**

DRR ROOFING, LLC, *et al.*,

Respondents.

ORDER

This matter is before the Court on the October 21, 2024, Report and Recommendation issued by the Magistrate Judge. (ECF No. 14.) Petitioner, Julie A. Su, Acting Secretary of the Department of Labor, commenced this miscellaneous action by petition to enforce an administrative subpoena served on Respondents, DRR Roofing, LLC, and Daniel Ruiz. (ECF No. 1.)

The subpoena required production of specified records and documents by October 20, 2023. (Subpoena *Duces Tecum*, ECF No. 1–8.) Respondents failed to respond, and the Acting Secretary filed a Petition to Enforce Subpoena *Duces Tecum* on May 24, 2024. (ECF No. 1.) The Court granted the petition on July 15, 2024, and ordered Respondents to produce the documents identified within the subpoena within thirty days. (ECF No. 6.) The Respondents again failed to respond. The Acting Secretary filed a motion for an order to require Respondents to show cause why they should not be held in contempt for failure to comply with the order enforcing the subpoena. (ECF No. 10.) The Court granted the motion and held a Show Cause hearing at which Respondents failed to appear. (ECF Nos. 11, 12.)

In response to the Acting Secretary’s motion for an order to show cause, the Magistrate Judge recommended that the Respondents be held in contempt, that a daily coercive fine be imposed, that the statute of limitations be tolled, and that

Petitioner be awarded its attorney's fees. (ECF No. 14.) It further directed the U.S. Marshal to effect personal service of the Report and Recommendation on Mr. Ruiz and directed the Clerk of Court to effect service by U.S. Mail. (*Id.*) Mr. Ruiz acknowledged service through U.S. Mail (ECF No. 16), but the U.S. Marshall was unable effect personal service (ECF No. 17).

The time for filing objections has passed, and no objections have been filed. The Court thus **ADOPTS** and **AFFIRMS** the Report and Recommendation. (ECF No. 14.) Accordingly, it is **ORDERED** that Respondents be held in contempt and that a fine of **\$100 PER DAY** be imposed on them until they comply with the Court's July 15, 2024, order. It is further **ORDERED** the statute of limitations for actions under the FLSA against Respondents be tolled from October 20, 2023 (the date Respondents first failed to comply with the subpoena), until such date as the Respondents comply in full. It is further **ORDERED** that Respondents pay the attorney's fees and costs Petitioner reasonably incurred in connection with prosecuting the petition. The Magistrate Judge's final recommendation—that these sanctions not be imposed should Respondents respond to the subpoena within fourteen days of being personally served the Report and Recommendation—is **VACATED AS MOOT**.

IT IS SO ORDERED.

/s/ Sarah D. Morrison
SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE